

**CITY OF DULUTH**

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 14-071	Contact	Steven Robertson; 218 730 5295	
Application Type	Vacation of Street Easement	Planning Commission Date	July 8, 2014	
Deadline for Action	Application Date	June 30, 2014	60 Days	N/A
	Date Extension Letter Mailed	June 30, 2014	120 Days	N/A
Location of Subject	800 West Railroad Street			
Applicant	Pier B Holdings	Contact		
Agent	Mark Pilon, Hanft Fride	Contact	mdp@haftlaw.com	
Legal Description	See Attached			
Site Visit Date	May 26, 2014	Sign Notice Date	June 23, 2014	
Neighbor Letter Date		Number of Letters Sent		

Proposal

Applicant is proposing a vacation of an unimproved street easement.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-W	Brownfield/Industrial/Water	Commercial Waterfront
North	MU-C/F-8	Transportation	Commercial Waterfront/Transportation
South	MU-W	Industrial	Commercial Waterfront
East	MU-W/MU-N	Recreation	Commercial Waterfront/Recreation
West	MU-W	Industrial/Transportation	Commercial Waterfront/Transportation

Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements require a Planning commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the council.

Code requirements are found in UDC Section 50-37.6. The Planning Commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway, or easement proposed for vacation:

- 1) Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

B-1

Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Commercial Waterfront: Waterfront-dependent commercial uses, sometimes mixed with residential or adjacent to higher density residential. Includes tourist- or recreation-oriented uses. Commercial areas can be adjacent to industrial waterfront. Abuts other commercial uses and recreation areas, preservation areas. Access to regional arterial traffic and water access.

The application was submitted on June 4, 2014, but was determined to be incomplete. The application (vacation exhibit) was revised and was considered a complete application on June 30, 2014. The original exhibit is enclosed with the staff report, as well as the revised exhibit.

This application is for the same site that the Planning approved two previous zoning requests at the May 2014 Planning Commission meeting: PL 14-067, a variance from the front yard parking requirements; and PL 14-061, a MU-I Planning Review.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

- 1) Applicant is proposing a vacation of an unimproved street easements adjacent. The applicant is the only affected property owner.
- 2) The unimproved right of way easement is 66 feet wide.
- 3) This vacation, if approved, will not deprive any currently platted lots, other than the applicant's, access to a public right of way.
- 4) Staff believe this right of way is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city (as long as an easement is maintained); the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
- 5) The right of way does not terminate at a waterfront/shoreline, but regardless the right of way is not and will not be needed to provide pedestrian or recreation access to the water.
- 6) No comments from the public concerning the vacation. MN Power has asked for a utility easement for much, but not all, the length of the right of way. The City has a water line in the right of way, but at this point City Engineering is not requesting an easement until the developer is able to provide a utility plan that would indicate private or public infrastructure. The applicant has submitted a revised exhibit, but will make additional revisions prior to the Planning Commission hearing to account for the requested utility easement.
- 7) Vacations of streets lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process, after City Council approval.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Staff recommends that the Planning Commission recommend approval to the City Council, based on the findings above, with the condition that a utility easement be maintained over a portion of the right of way.

B-2

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning

PL 14-071

Vacation

8th Avenue W

Legend



Zoning Boundaries

Stream Type

Trout Stream (GPS)

Other Stream (GPS)

Water Distribution System

30 - 60" Water Pipe

16 - 24" Water Pipe

4 - 6" Water Pipe

Sanitary Sewer Collection System

Sanitary Sewer Collector

Sanitary Sewer Interceptor

Sanitary Sewer Forced Main

Storage Basin

Pump Station

Gas Distribution Main

8" - 16" Gas Pipes

4" - 6" Gas Pipes

0" - 4" Gas Pipes

Storm Sewer Collection System

Storm Sewer Pipe

Storm Sewer Catch Basin

Discharge Points

Right-of-Way Type

Road or Alley ROW

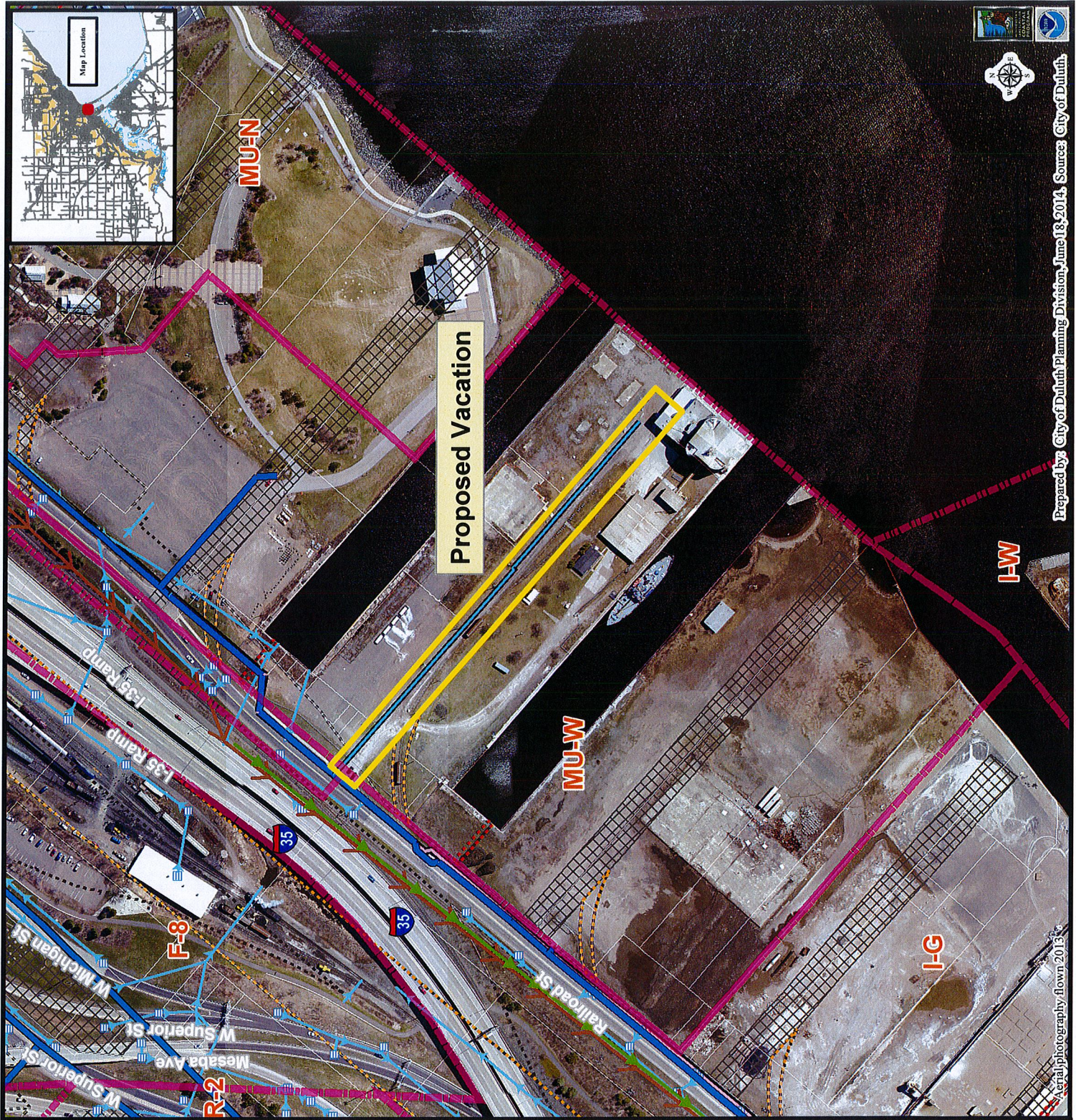
Vacated ROW

Easement Type

Utility Easement

Other Easement

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Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, June 18, 2014. Source: City of Duluth.

B-3



City Planning

PL 14-071

Vacation

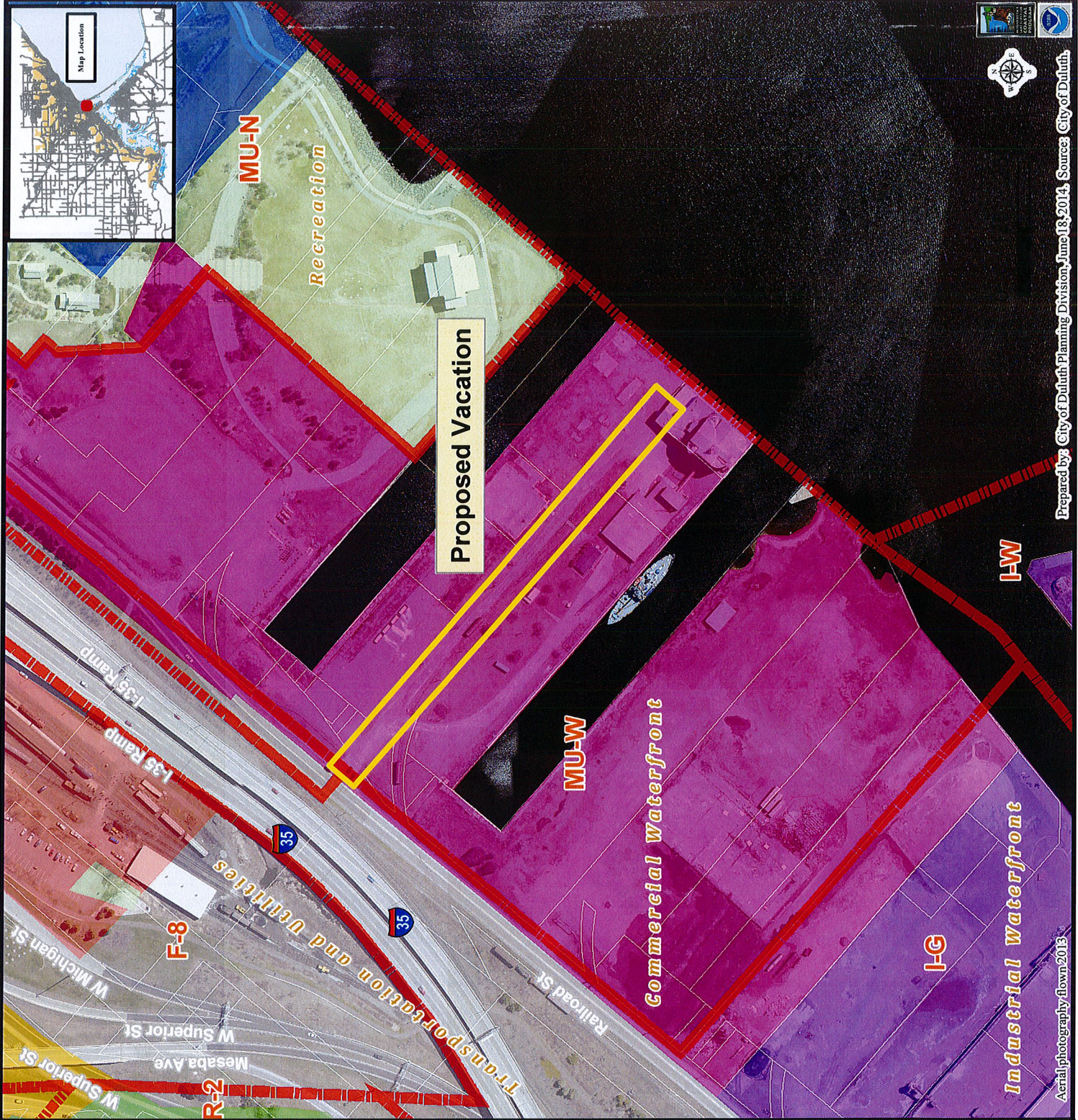
8th Avenue W



Legend

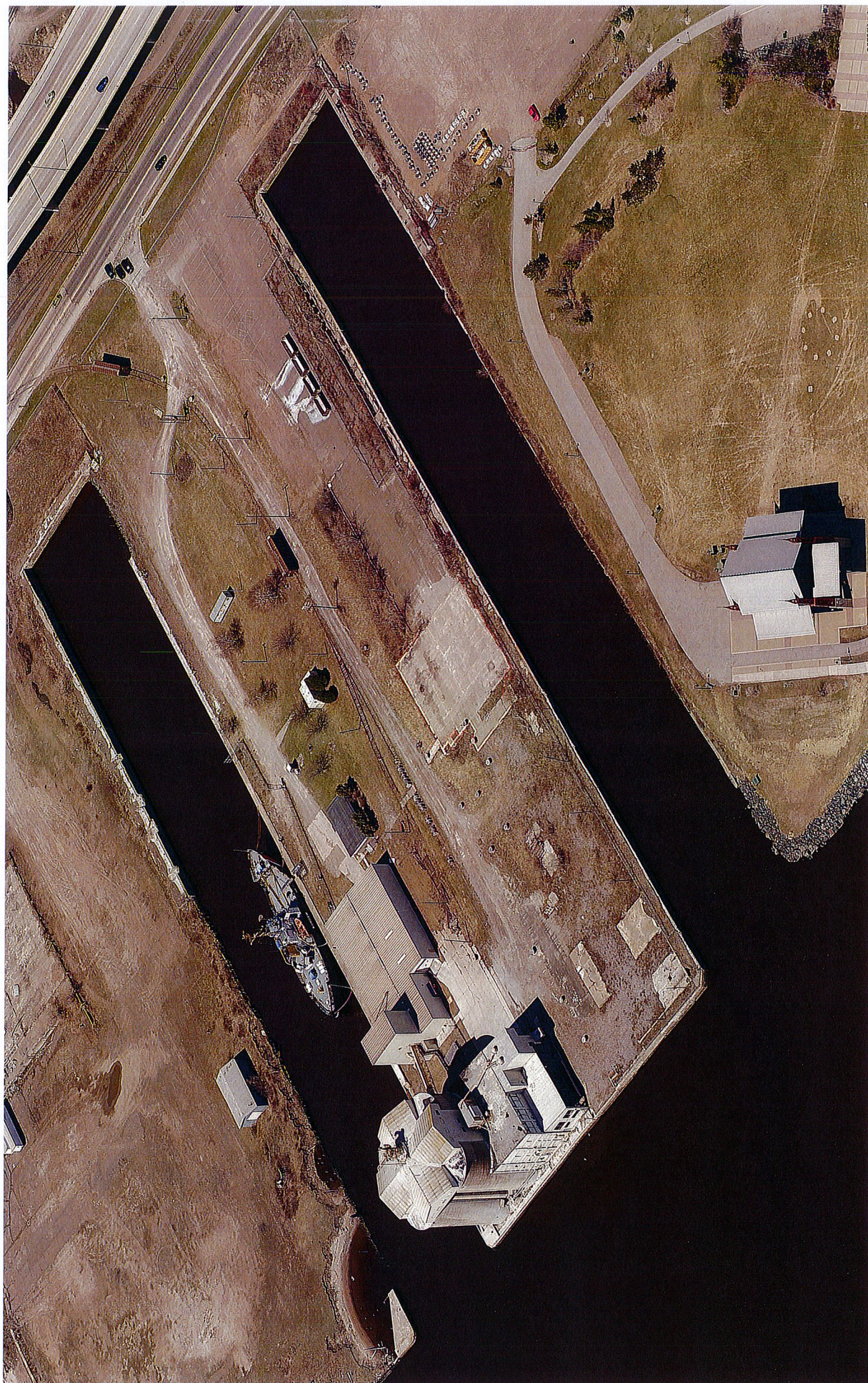
	Zoning Boundaries
	Future Land Use
	Preservation
	Recreation
	Rural Residential
	Low-density Neighborhood
	Traditional Neighborhood
	Urban Residential
	Neighborhood Commercial
	Neighborhood Mixed Use
	General Mixed Use
	Central Business Secondary
	Central Business Primary
	Auto Oriented Commercial
	Large-scale Commercial
	Business Park
	Tourism/Entertainment District
	Medical District
	Institutional
	Commercial Waterfront
	Industrial Waterfront
	Light Industrial
	General Industrial
	Transportation and Utilities

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Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, June 18, 2014. Source: City of Duluth.



B-5

Petition to Vacate Street, Alley, or Utility Easement

Name: Pier B Holding, LLC, a Minnesota limited liability company

Description of street, alley, or easement to vacate: All that part of 8th Ave. W., within the plat of Bay Front Division of Duluth, lying southerly of the Southerly line of Railroad Street

My request for this vacation is to (indicate purpose of vacation):

To allow for the expansion of adjacent development.

The City of Duluth will not need this street, alley, or easement in the future because: 1. It is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the City; 2. It terminates near the waterfront and does not provide pedestrian or recreational access to the water; 3. It is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Council to vacate the street, alley, or easement described in the attached legal description.

This petition is made upon the following facts and reasons (Identify the factual basis and reasons supporting the petition) ¹:

- See Attached Exhibit A -

This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signatures of these persons is attached hereto and made a part hereof. ²

The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 50-37.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.

Signature(s):



Date:

5/30/14

Notice: This is public data.

¹ In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

² If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for another owner unless legally authorized to do so, i.e. power of attorney, trustee, or court approved guardianship or conservatorship.

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B-6

EXHIBIT A

Petitioner, Pier B Holding, LLC, a Minnesota limited liability company, is the owner of property adjacent to 8th Avenue West, legally described as follows, to-wit:

PARCEL I:

Lot 5 and all that part of Lot 7 lying South of a line drawn parallel to and 25 feet distant Northerly from the boundary line between said Lots 5 and 7, all in Block 9, Bay Front Division of Duluth.

PARCEL II:

Lots 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33, Block 9; also Lot 4, Block 10; all in Bay Front Division of Duluth.

PARCEL III:

Lot 7, EXCEPT that part lying South of a line drawn parallel to and 25 feet distant Northerly from the boundary line between said Lots 5 and 7 and all of Lot 9, all in Block 9, Bay Front Division of Duluth.

PARCEL IV:

Lots 1, 2 and 3, Block 10, Bay Front Division of Duluth, EXCEPT that part which lies Northwesterly of a line run parallel with and distant 54 feet Southeasterly of the following described line:

From the point of intersection of the center line of Michigan Street with the center line of 15th Avenue West, run Southeasterly along the center line of 15th Avenue West for 263.43 feet to the point of beginning of the line to be described; thence deflect to the left at an angle of 91 degrees 22 minutes 50 seconds for 2034.56 feet; thence deflect to the right on a 4 degree 00 minute curve (delta angle 25 degrees 35 minutes 22 seconds) for 639.74 feet; thence on tangent to said curve for 136.02 feet; thence deflect to the left on a 3 degree 00 minute curve (delta angle 24 degrees 15 minutes 01 seconds) for 808.34 feet and there terminating.

TOGETHER with all that part of the above described tract adjoining and Southeasterly of the above described strip, which lies Northwesterly of the following described line; from a point on the above described line, distant 428.38 feet Southwesterly of its point of termination, run Southeasterly at right angles to said line for 54 feet to the point of beginning of the line to be described; thence run Northeasterly to a point on the Northeasterly line of Lot 14, Block 7, Bay Front Division of Duluth, distant 47 feet Northwesterly of the most Easterly corner thereof and there terminating.

B-7

PARCEL V:

Lots 1 and 3, Block 9, BAY FRONT DIVISION OF DULUTH.

Comprising approximately 49% of the real property abutting the Avenue for which the vacation is sought as depicted on the attached Exhibit B.

The Duluth Economic Development Authority, a public body corporate and politic and a political subdivision under the laws of the State of Minnesota, (DEDA) is also the owner of property adjacent to 8th Avenue West, legally described as follows, to-wit:

All of Lots 2, 4, 6, 8, 10, 12, 14, 16 and 18, Block 8, Bay Front Division of Duluth, according to the record plat thereof on file and of record in the office of the Register of Deeds, St. Louis County, together with any and all streets, alleys and harbor slips adjacent thereto, vacated or to be vacated, and with any and all riparian and other appurtenant rights, St. Louis County, Minnesota.

-AND-

Lots 20, 22, 24, 26, 28, 30, 32, 34 and 36, Block 8, Bay Front Division of Duluth; and those parts of Lots 9 through 16, inclusive, Block 7, Bay Front Division of Duluth, lying southeasterly of the following described line: From the point of intersection of the center line of Michigan Street with the center line of 15th Avenue West run southeasterly along the center line of 15th Avenue West for 261.49 feet; thence deflect to the left at an angle of 91° 22' 10" for 2034.48 feet; thence deflect to the right on a 4° 00' curve (delta angle 25° 35' 22") for 639.74 feet; thence on tangent to said curve for 136.02 feet; thence deflect to the left on a 3° 00' curve (delta angle 24° 15' 01") having a length of 808.34 feet for 379.96 feet; thence deflect to the right at an angle of 90° with the tangent of said 3° 00' curve at said point for 54 feet to the point of beginning of the line to be described; thence run northeasterly to a point on the northeast line of Lot 14, said Block 7, distant 47 feet northwesterly of the most easterly corner thereof; thence run northeasterly to the most easterly corner of Lot 1, said Block 7, and there terminating; and Excepting therefrom that part of Lot 16, Block 7, Bay Front Division of Duluth, which lies southwesterly of Line A described below and southeasterly of Line B described below: Line A: Beginning at the most northerly corner of Lot 15, said Block 7, thence run southeasterly to a point on the southwesterly line of said Lot 16, distant 70 feet southeasterly on the most westerly corner thereof, and there terminating. Line B: From the point of intersection of the center line of Michigan Street with the center line of 15th Avenue West; run southeasterly along the center line of 15th Avenue West for 263.43 feet; thence deflect to the left at an angle of 91° 22' 50" for 2034.56 feet; thence deflect to the right on a 4° 00' curve (delta angle 25° 35' 22") for 639.74 feet; thence on tangent to said curve for 136.02 feet; thence deflect to the left on a 3° 00' curve (delta angle 24° 15' 01") having a length of 808.34 feet; for 379.96 feet; thence run southeasterly at right angles to the tangent of said curve at said

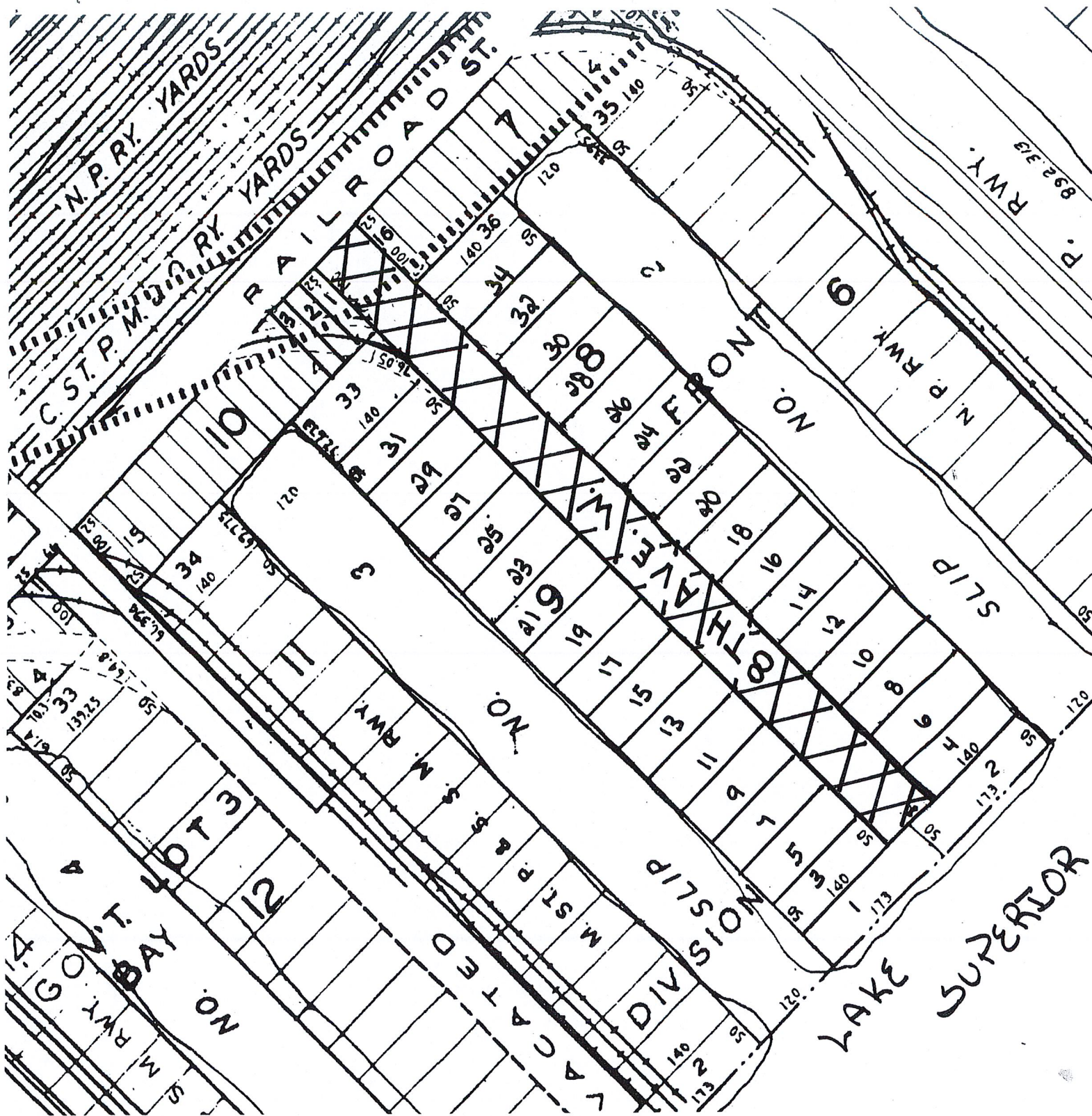
B-2

point for 54 feet to the point of beginning of a line to be described; thence run northwesterly to a point on the northeasterly line of Lot 14, Block 7, said Bay Front Division of Duluth, distant 47 feet northwesterly of the most easterly corner thereof, and there terminating.

Comprising approximately 49% of the real property abutting the Avenue for which the vacation is sought as depicted on the attached Exhibit B.

Together, the Petitioner and DEDA constitute the required majority of the lineal frontage of the land abutting upon the public street proposed to be vacated.

B-9



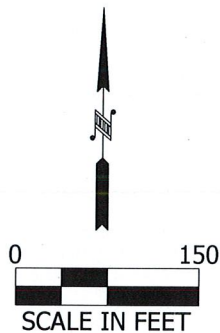
VACATED
8th AVE. W.

EXHIBIT

3

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B-10



LEGEND

These standard symbols will be found in the drawing.

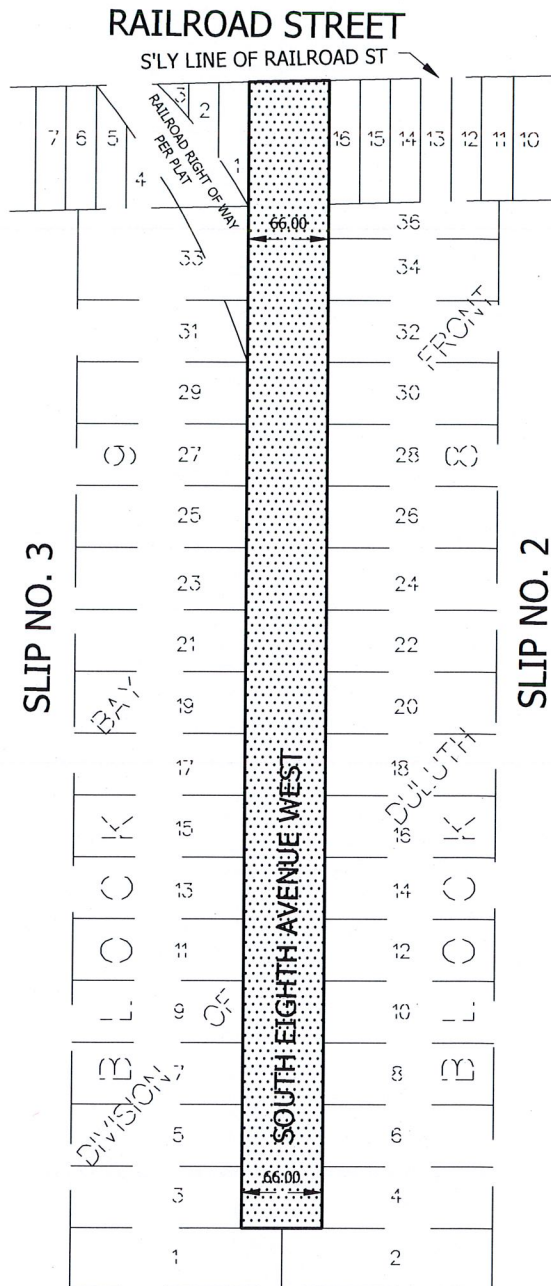


PROPOSED STREET VACATION

LEGAL DESCRIPTION OF VACATION OF A PORTION OF SOUTH 8TH AVENUE WEST

South Eighth Avenue West lying adjacent to Blocks 8 and 9, BAY FRONT DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota and lying Southerly of the Southerly Right of way line of Railroad Street as platted in said BAY FRONT DIVISION OF DULUTH.

Said parcel contains 61,128 sq. ft or 1.40 acres more or less.



NOTES

THIS IS NOT A BOUNDARY SURVEY.

BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996.

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA SURVEY COMPANY, INC.

Approved by the City Engineer of the City of Duluth, MN. this _____ day of _____ 20__

By _____

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Date: 6-30-14

David R. Evanson

David R. Evanson MN License No. 49505

VACATION SKETCH OF 8TH AVE WEST

CLIENT: PIER B HOLDING, LLC

REVISIONS: XXX

DATE: 6-30-14

ADDRESS: XXX

JOB NUMBER: 14-313



LAND SURVEY COMPANY

* LAND SURVEYING

* LAND DEVELOPMENT

* PLATTING

* LEGAL DESCRIPTIONS

* CONSTRUCTION STAKING

PHONE: 218-727-5211

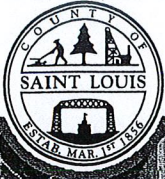
FAX: 218-727-3798

LICENSED IN MN & WI

CERTIFIED FEDERAL SURVEYOR

WWW.ALTA-SURVEYDULUTH.COM

B-11



County Land Explorer

St. Louis County, Minnesota



St. Louis County MN



Source: Esri, DigitalGlobe, GeoEye, IGN, GeoEye, etc.



Imagery: USDA, USGS, AeroGRID, IGN, etc. User Contributed Imagery

0 0.125

Vacation

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Map created using County Land Explorer
gis.stlouiscountymn.gov/CountyLandExplorer

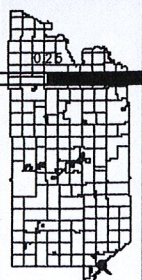
County Land Explorer

St. Louis County www.stlouiscountymn.gov/CountyLandExplorer Minnesota

Disclaimer

This is a compilation of records as they appear in the Saint Louis County Offices affecting the area shown. This drawing is to be used only for reference purposes and the County is not responsible for any inaccuracies herein.

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B-12